



# राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, मंगलवार, २५ मार्च, १९९७/४ चैत्र, १९१९

हिमाचल प्रदेश सरकार

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचना

शिमला-१७१००४, २५ मार्च, १९९७

संख्या विधायन/बिल/१-१७/९७-वि० स०.—हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, १९७३ के नियम १३५ के अन्तर्गत हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार (संशोधन) विधेयक, १९९७ (१९९७ का विधेयक संख्यांक ५) जो आज दिनांक २५ मार्च, १९९७ को हिमाचल प्रदेश विधान

सभा में पुरःस्थापित हो चुका है, सर्वसाधारण की सूचनार्थ असाधारण राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है।

हस्ताक्षरित/-

सचिव,

हिमाचल प्रदेश विधान सभा।

## हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार (संशोधन) विधेयक, 1997

(विधान सभा में पुरःस्थापित रूप में)

हिमाचल प्रदेश टेनेन्सी एण्ड लैंड रिफॉर्मज ऐक्ट, 1972 (1974 का 8) का और संशोधन करने के लिए विधेयक ।

भारत गणराज्य के अड़तालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो:—

1. (1) इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार (संशोधन) अधिनियम, 1997 है । संक्षिप्त नाम और प्रारम्भ ।
- (2) यह अठारह दिसम्बर, 1996 को प्रवृत्त होगा और सदैव प्रवृत्त हुआ समझा जाएगा ।
2. हिमाचल प्रदेश टेनेन्सी एण्ड लैंड रिफॉर्मज ऐक्ट, 1972 (1974 का 8) (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 2 के खण्ड (2) में "person" शब्द के स्थान पर शब्द "landowner" रखा जाएगा । धारा 2 का संशोधन ।
3. मूल अधिनियम की धारा 118 में— धारा 118 का संशोधन ।
  - (i) उप-धारा (1) में स्पष्टीकरण के स्थान पर, निम्नलिखित स्पष्टीकरण रखा जाएगा, अर्थात्:—

*"Explanation.—For the purpose of this sub-section, the expression "transfer of land" shall not include—*

    - (i) transfer by way of inheritance;
    - (ii) transfer by way of gift made or will executed, in favour of any or all legal heirs of the donor or the testator, as the case may be;
    - (iii) transfer by way of lease of land or building in a municipal area ;

but shall include—

    - (a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non-agriculturist ; and
    - (b) an authorisation made by the owner by way of special or general power of attorney or by an agreement with the intention to put a non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of that land.";

## (ii) उप-धारा (2) में—

(क) खण्ड (d) के पश्चात्, निम्नलिखित खण्ड (dd) अन्तःस्थापित किया जाएगा, अर्थात्:—

“(dd) a person who, on commencement of this Act, worked and continues to work for gain in an estate situated in Himachal Pradesh; for the construction of a dwelling house, shop or commercial establishment in a municipal area, subject to the condition that the land to be transferred does not exceed —

- (i) in case of a dwelling house ... 500 square metres; and
- (ii) in case of a shop or commercial establishment ... 300 square metres :

Provided that such person does not own any vacant land or a dwelling house in a municipal area in the State;” ;

(ख) खण्ड (e) में, “or a statutory body” शब्दों से पहले, “or a Company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894” शब्द अन्तःस्थापित किए जाएंगे; 1956 का 1 1894 का 1

(ग) खण्ड (f) के स्थान पर, निम्नलिखित खण्ड रखा जाएगा:—

“(f) a person who has become non-agriculturist on account of—

- (i) acquisition of his land for any public purpose under the Land Acquisition Act, 1894 ; or
- (ii) vestment of his land in the tenants under this Act; or” ;

(घ) प्रथम परन्तुक में, “clause (g)” शब्द, कोष्ठक और अक्षर के स्थान पर “clause (dd) or clause (g)” शब्द, कोष्ठक और अक्षर रखे जाएंगे ;

(ङ) द्वितीय परन्तुक में, “non-agriculturist” शब्द के पश्चात्, “who purchases land under clause (dd) or” शब्द, कोष्ठक और अक्षर जोड़े जाएंगे;

(iii) उप-धारा (3-B) में, “and after making such enquiry as he thinks fit either personally or through an officer working under him” शब्दों का लोप किया जाएगा और अन्त में, “and the order made by the Divisional Commissioner shall be final and conclusive” शब्द जोड़े जाएंगे;

(iv) उप-धारा (3-C) के स्थान पर, निम्नलिखित उप-धारा रखी जाएगी, अर्थात्:—

“(3-C) (a) The Financial Commissioner may, either on a report of a Revenue Officer or on an application or of his own motion,

call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(b) No order shall be passed under this sub-section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.”;

(v) उप-धारा (3-D), में तीसरी बार आए “appeal” शब्द के स्थान पर, “revision” शब्द रखा जाएगा;

(vi) उप-धारा (4), के पश्चात् विद्यमान स्पष्टीकरण को स्पष्टीकरण-I के रूप में पुनःसंख्यांकित किया जाएगा और उसके अन्त में “but shall not include a built up area in the municipal area” शब्द जोड़े जाएंगे ; and

(vii) इस प्रकार पुनःसंख्यांकित स्पष्टीकरण-I के पश्चात् निम्नलिखित स्पष्टीकरण-II जोड़ा जाएगा, अर्थात्:—

“Explanation-II.—For the purpose of this section the expression “municipal area” means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in force.”.

4. (1) हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार (संशोधन) अध्यादेश, 1996 (1996 का 4) एतद्द्वारा निरसित किया जाता है ।

(2) ऐसे निरसन के होते हुए भी, निरसित अध्यादेश के अधीन की गई कोई बात या कार्रवाई इस अधिनियम के तत्स्थानी उपबन्धों के अधीन की गई समझी जाएगी, मानो इस अधिनियम के उपबन्ध उस समय प्रवृत्त थे जब ऐसी बात या कार्रवाई की गई थी ।

1996 के  
अध्यादेश  
संख्यांक 4  
का निरसन  
और व्या-  
वृत्तियाँ ।

### उद्देश्यों और कारणों का कथन

हिमाचल प्रदेश टैनेन्सी एण्ड लैण्ड रिफॉर्मज ऐक्ट, 1972 (1974 का 8) की धारा 118 के अधीन कृषकों द्वारा गैर-कृषकों के पक्ष में राज्य सरकार की पूर्ण अनुज्ञा से विनिर्दिष्ट प्रयोजनों के लिए ही भूमि का अन्तरण किया जा सकता है। भूमि के अन्तरण पर इस निर्बन्धन ने राज्य के नगरीय क्षेत्रों में राज्य में पीढ़ी दर पीढ़ी विभिन्न उपजीविकाओं में लगे हुए लोगों के निवास गृह, दुकानों और वाणिज्यिक संस्थाओं के स्थापन को प्रतिकूल रूप से प्रभावित किया है। यहां तक कि जहां सरकार द्वारा उद्योग स्थापित करने के लिए भूमि अर्जित की गई है, वहां भी धारा 118 के अधीन अनुज्ञा अभिप्राप्त करने की आवश्यकता राज्य में औद्योगीकरण को विलम्बित कर रही है। हिमाचल प्रदेश टैनेन्सी एण्ड लैण्ड रिफॉर्मज ऐक्ट, 1972 और हिमाचल प्रदेश बड़ी जमींदारी उन्मूलन अधिनियम, 1953 के उपबन्धों के अधीन उनकी भूमि निहित होने के कारण किसानों की एक बड़ी संख्या भूमिहीन हो गई और इस प्रकार अब वे भूमि खरीदने के लिए पात्र नहीं हैं। इसके अतिरिक्त, उक्त धारा 118 के प्रयोजनों के लिए यथा उपबन्धित अपील/पुनरीक्षण के लिए प्रक्रिया भी अनावश्यक रूप से जटिल है। विद्यमान उपबन्धों में उपरोक्त कमियों और अस्पष्टताओं को दूर करने के लिए मूल अधिनियम में संशोधन करना आवश्यक हो गया है।

इसके इलावा, राज्य में औद्योगिक/जल-विद्युत परियोजनाएं स्थापित करने के लिए बढ़ती हुई आवश्यकता के दृष्टिगत और लोगों को धारा 118 के अधीन निर्बन्धनों में तत्काल ढील देने के लिए लोक-मांग को भी पूरा करने के लिए मूल अधिनियम में शीघ्र संशोधन करना परमावश्यक हो गया था। क्योंकि हिमाचल प्रदेश विधान सभा सत्र में नहीं थी और लोकहित में हिमाचल प्रदेश टैनेन्सी एण्ड लैण्ड रिफॉर्मज ऐक्ट, 1972 की धारा 118 में तत्काल संशोधन करना आवश्यक हो गया था, अतः हिमाचल प्रदेश के राज्यपाल द्वारा भारत के संविधान के अनुच्छेद 213 के खण्ड (1) के अधीन हिमाचल प्रदेश अभिवृत्ति और भूमि सुधार (संशोधन) अध्यादेश, 1996 (1996 का 4) 26 दिसम्बर, 1996 को प्रख्यापित किया गया था और इसे 28 दिसम्बर, 1996 के राजपत्र, हिमाचल प्रदेश (असाधारण) में प्रकाशित किया गया था। उक्त अध्यादेश अब नियमित अधिनियमिति द्वारा प्रतिस्थापित किया जाना अपेक्षित है।

यह विधेयक उपर्युक्त अध्यादेश को बिना किसी उपान्तरण के प्रतिस्थापित करने के लिए है।

शिमला :  
25 मार्च, 1997

गुलाब सिंह ठाकुर,  
राजस्व मन्त्री।

वित्तीय ज्ञापन

-शून्य-

प्रत्यायोजित विधान सम्बन्धी ज्ञापन

-शून्य-

AUTHORITATIVE ENGLISH TEXT

Bill No. 5 of 1997.

THE HIMACHAL PRADESH TENANCY AND LAND REFORMS  
(AMENDMENT) BILL, 1997

A

BILL

*further to amend the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-eighth Year of Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Tenancy and Land Reforms (Amendment) Act, 1997.

Short title and commencement.

(2) It shall and shall be deemed to have come into force on the 28th day of December, 1996.

8 of 1974

2. In section 2 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 (hereinafter called the principal Act), in clause (2), for the word "person", the word "landowner" shall be substituted.

Amendment of section 2.

3. In section 118 of the principal Act—

Amendment of section 118.

(i) in sub-section (1), for the Explanation, the following shall be substituted, namely:—

"*Explanation.*—For the purpose of this sub-section, the expression "transfer of land" shall not include—

(i) transfer by way of inheritance ;

(ii) transfer by way of gift made or will executed, in favour of any or all legal heirs of the donor or the testator, as the case may be;

(iii) transfer by way of lease of land or building in a municipal area ;

but shall include—

(a) a benami transaction in which land is transferred to an agriculturist for a consideration paid or provided by a non-agriculturist; and

(b) an authorisation made by the owner by way of special or general power of attorney or by an agreement with the intention to put a non-agriculturist in possession of the land and allow him to deal with the land in the like manner as if he is a real owner of that land.";

(ii) in sub-section (2) —

(a) after clause (d), the following clause (dd) shall be inserted, namely:—

“(dd) a person who, on commencement of this Act, worked and continues to work for gain in a estate situated in Himachal Pradesh ; for the construction of a dwelling house, shop or commercial establishment in a municipal area, subject to the condition that the land to be transferred does not exceed—

(i) in case of a dwelling house—500 square metres ; and

(ii) in the case of a shop or commercial establishment—300 square metres :

Provided that such person does not own any vacant land or a dwelling house in a municipal area in the State;” ;

(b) in clause (e), before the words “or a statutory body”, the words “or a Company incorporated under the Companies Act, 1956, for which land is acquired through the State Government under the Land Acquisition Act, 1894” shall be inserted ;

1 of 1956

1 of 1894

(c) for clause (f) , the following clause shall be substituted, namely:—

“(f) a person who has become non-agriculturist on account of—

(i) acquisition of his land for any public purpose under the Land Acquisition Act, 1894 ; or

(ii) vestment of his land in the tenants under this Act ; or” ;

(d) in the first proviso, for word, brackets and alphabet “clause (g)”, the words, brackets and alphabets “clause (dd) or clause (g)” shall be substituted ;

(e) in the second proviso, after the word “non-agriculturist”, the words, brackets and alphabets “who purchases land under clause (dd) or” shall be added ;

(iii) in sub-section (3-B), the words “and after making such enquiry as he thinks fit either personally or through an officer working under him” shall be omitted and at the end, the words “and the order made by the Divisional Commissioner shall be final and conclusive” shall be added ;

(iv) for sub-section (3-C), the following sub-section shall be substituted, namely:—



“(3-C)(a) The Financial Commissioner may, either on a report of a Revenue Officer or on an application or of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any Revenue Officer subordinate to him and in which no appeal lies thereto, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(b) No order shall be passed under this sub-section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.”;

(v) in sub-section (3-D), for the word “appeal” appearing for the third time, the word “revision” shall be substituted;

(vi) after sub-section (4), the existing Explanation shall be numbered as Explanation-I and at the end, the words “but shall not include a built-up area in the municipal area” shall be added; and

(vii) after Explanation-I, so numbered, the following Explanation-II, shall be added, namely:—

“*Explanation-II.*— For the purpose of this section the expression “municipal area” means the territorial area of a Nagar Panchayat, Cantonment Board, Municipal Council or a Municipal Corporation constituted under any law for the time being in force.”.

4. (1) The Himachal Pradesh Tenancy and Land Reforms (Amendment) Ordinance, 1996 (4 of 1996) is hereby repealed.

Repeal of  
Ordinance  
No. 4 of  
1996 and  
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the repealed Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the Act, as if the provisions of the Act were in force at the time when such thing was done or such action was taken.

## STATEMENT OF OBJECTS AND REASONS

Under section 118 of Himachal Pradesh Tenancy and Land Reforms Act, 1972 (Act No. 8 of 1974) the transfer of land by agriculturists in favour of non-agriculturists can only be made for specific purposes with the prior permission of the State Government. This restriction on transfer of land has adversely affected construction of dwelling houses, shops and commercial establishments in urban areas of the State by persons who have been engaged in various occupations in the State from generation to generation. Even where the land has been acquired by the Government for the establishment of industries, the requirement to obtain permission under section 118 is delaying industrialisation in the State. A large number of farmers have also been rendered landless because of vesting of their land under the provisions of Himachal Pradesh Tenancy and Land Reforms Act, 1972 and Abolition of Big Landed Estates Act, 1953 and as such they are not eligible to purchase land. Apart from this, the procedure for appeal/revision as provided for the purposes of the said section 118 is unnecessarily cumbersome. To remove the above deficiencies and ambiguities in the existing provisions, it has become necessary to amend the principal Act.

Moreover, keeping in view the growing need for setting up of Industrial/Hydel Projects in the State and also to meet the public demand, for immediate relaxation of restrictions under section 118, the principal Act had to be amended urgently. Since the Legislative Assembly was not in Session and section 118 of Himachal Pradesh Tenancy and Land Reforms Act, 1972 had to be amended urgently in public interest, therefore, Governor, Himachal Pradesh promulgated the Himachal Pradesh Tenancy and Land Reforms (Amendment) Ordinance, 1996 under clause (1) of article 213 of the Constitution of India on 26-12-1996 and the same was published in the Rajpatra (extra-ordinary) dated 28-12-1996. The said Ordinance is now required to be replaced by a regular enactment.

This Bill seeks to replace the aforesaid Ordinance without any modification.

GULAB SINGH THAKUR,  
*Minister-in-Charge.*

SHIMLA :

*The 25th March, 1997.*

## FINANCIAL MEMORANDUM

—NIL—

## MEMORANDUM REGARDING DELEGATED LEGISLATION

—NIL—